

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MIKEY'S CHOICE LLC,

Plaintiff,

- against -

ORDER
08-CV-4492 (RRM) (SMG)

FAGOS LLC a/k/a FAGOS PRODUCE LLC
d/b/a 5 DE MAYO and JAIME LUCERO,
ERIC LUCERO and OLGA L. FRANCO,
Individually and in any corporate capacity,

Defendants.

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MAUSKOPF, United States District Judge.

By Motion filed August 20, 2009, Plaintiff moved for default judgment against all Defendants. By Order entered the same day, this Court referred that motion to the assigned Magistrate Judge, the Honorable Steven M. Gold, for a Report and Recommendation. On February 19, 2010, Judge Gold issued a Report and Recommendation (the "R&R") recommending that default judgment be entered against the corporate Defendant, Fagos LLC ("Fagos"), but that default judgment be denied as to the individual Defendants. Judge Gold further recommended that judgment be entered against Fagos in the total amount of \$42,888.00. However, Judge Gold recommended that Plaintiff's application for an award of attorney's fees and costs be denied. Finally, Judge Gold recommended that Plaintiff be awarded prejudgment interest at an annual rate of 4% beginning from May 24, 2008 until the date that judgment is entered and postjudgment interest from the date of entry of judgment as mandated by 28 U.S.C. § 1961(a). Judge Gold reminded the parties that, pursuant to Rule 72(b), any objection to the R&R was due March 9, 2010. No party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. See

Covey v. Simonton, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007). Accordingly, it is hereby ORDERED that Plaintiff's motion for default judgment as to Fagos is GRANTED and that Plaintiff's motion for default judgment as to the individual Defendants is DENIED. It is further ORDERED that judgment be entered against Fagos in the total amount of \$42,888.00 and that Plaintiff be awarded prejudgment and postjudgment interest as outlined above. The Clerk of Court is directed to enter judgment accordingly and close the case.

SO ORDERED.

Dated: Brooklyn, New York
March 12, 2010

s/RRM

ROSLYNN R. MAUSKOPF
United States District Judge